ARTICLE APPEARED
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CHICAGO TRIBUNE
4 MARCH 1982

Suppressing leaks curbs rights

By Henry Steele Commager

PRESIDENT REAGAN and his national security adviser, William P Clark, are now launched upon a crusade to increase secrecy in the government. They have issued new regulations, enlisted the Central Intelligence Agency and administered lie detector tests to suspects—tests which apparently include questions about "consorting with foreigners." How lucky for Benjamin Franklin and Thomas Jefferson that they did not have to submit to these!

The occasion for this new flurry of censorship is the "leak," some weeks ago, to the effect that the Pentagon, with the blessings of the administration, had deliberately underestimated the defense budget for 1983 and 1984 by some $750 billion. This disclosure, asserts the President, constitutes a threat to national security.

Even in a day when ignoring the Constitution has become almost an official policy, few programs have rested on a soggier legal foundation than this. President Reagan has insisted that "the law must be enforced," but there is in fact no law restricting the ventilation of "classified" information, only a series of executive orders. Nor are there any standards for such "classification"; those who classify make up their own rules as they go along, and—just to make sure that these rules are latitudinarian—the executive has decreed that in case of doubt, the question is always to be decided in favor of "security."

TO OLD LADS of World War II this whole clamor for "secrecy" has a familiar ring. When I worked, briefly, in the Office of War Information and, later, in the historical branch, almost every piece of paper that came across my desk was stamped "secret"—including, be it noted, the Declaration of Independence and the Constitution of the United States. Had I been so reckless as to take one of these to my classroom, and read, let us say, the 1st Amendment, guaranteeing freedom of speech and of the press, I could have been punished by fine and imprisonment.

There's no ground for astonishment in all this. This is the way the official mind works. Far better to stamp everything "secret" than to take chances. It is reliably estimated that 95 percent of the hundreds of millions of documents now classified "secret" and gathering dust in various depositories, could be declassified without the faintest impact on national security—or, for that matter, on anything else. No, the fault is not in the subordinates, but in those at the top who apply the term "national security" without either defining it or setting up standards for its application. These "public servants" who lent themselves to the chicanery of deception on the budget do not believe that the American people have a "right to know," or that democracy and freedom depend on the exercise of that right.

More is involved here than the matter of official secrecy. What is involved is the very character of the American consitutional system—an issue which, curiously enough, has attracted little attention even in the Congress. For if there is one principle that is deeply rooted in English and American history, and engraved into the American Constitution, it is that the legislative branch controls the purse. This was the issue between Parliament and both Tudor and Stuart monarchs for more than a century, and was finally settled in Parliament's favor by the great Bill of Rights of 1689.

The principle was revived in the American colonies, and invoked by most of the colonial legislatures in their struggles with royal governors. It was, finally, written into Article One of the Constitution: "All bills for raising revenue shall originate in the House of Representatives." That principle was so widely accepted that it did not excite any debate either in the Constitutional Conventions or in the state ratifying conventions.

THE LOGIC of this was obvious at the time. It still is. If democracy is to work, it must be lodged in the people, or their direct representative, not in the executive. That has long been our chief assurance that the executive power will not get out of hand. But if both the public, and members of the house whom they elect, are to be deceived about the cost of particular programs, how can they faithfully perform their constitutional obligation?

We have for some 30 years now a clear illustration of the danger of secrecy in appropriation. The Constitution (Article One, Section 9) provides that "no money shall be drawn from the treasury but in consequence of appropriation made by law, and a regular statement and account of expenditures of all public money shall be published from time to time." No such "statement," regular or irregular, has ever been published of expenditures by the CIA. What is most ominous is that the Congress has never had the courage to demand such a statement. That is why the CIA has been able now for three decades to act like a bull in the constitutional china shop.

If the Reagan administration wished to strengthen official censorship, it could not have found a worse excuse than in this convulsive effort to plug up "leaks" about the budget. Here, if anywhere, the people, who are required to be eternally vigilant, have a right to know.

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Los Angeles Times Syndicate

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